

THOMAS FINAN,)
)
Plaintiff,)
)
v.) No. 4:06-CV-878 CAS
)
GOOD EARTH TOOLS, INC., and)
BALLAST TOOLS, INC.,)
)
Defendants.)

Pending before the Court is defendants' motion for an order acknowledging satisfaction of judgment and for sanctions. Defendants have also moved for a hearing on their motion. Attorneys Kristin Whittle Parke, who represented plaintiff through his appeal, and Patrick Keefe, who has represented plaintiff since a fee dispute has arisen between plaintiff and Ms. Whittle Parke, both oppose the motion and have filed separate responses. Defendants did not file a reply memorandum and the time to do so has expired.

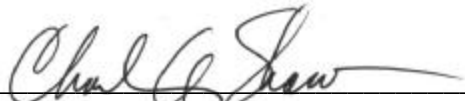
According to defendants, on or about November 20, 2009, they paid the judgment by wire transferring funds to Ms. Whittle Parke's client trust account. Although not explicitly stated in the motion, it appears defendants wired \$958,680.35 into Ms. Whittle Parke's account. In their motion for an order acknowledging satisfaction of judgment, defendants did not provide an accounting for the amount they paid. Both Mr. Keefe and Ms. Whittle Parke object that the amount paid is substantially less than the amount due. Ms. Whittle Parke attached to her response memorandum an accounting of the amount she believes was due, which is \$46,876.10 more than what was paid. Defendants did not respond to Ms. Whittle Parke's calculations.

The Court finds defendants have not met their burden of establishing that the judgment has been satisfied in this case. Not having been provided an accounting upon which defendants based the amount of their payment, defendant's motion for an order acknowledging satisfaction of judgment motion will be denied without prejudice. Defendants also have not established the legal and factual basis for the imposition of sanctions. The Court further finds that a hearing is not necessary to decide these issues.

Accordingly,

IT IS HEREBY ORDERED defendants' motion for an order acknowledging satisfaction of judgment and for sanctions is **DENIED** without prejudice. [Doc. 134]

IT IS FURTHER ORDERED that defendants' motion for a hearing is **DENIED**. [Doc. 141]



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 8th day of February, 2010.